

STATE OF MAINE

CUMBERLAND, ss.

SUPREME JUDICIAL COURT
DOCKET NO. BAR-02-7

BOARD OF OVERSEERS OF THE BAR
Plaintiff

v.

ORDER

RICHARD B. SLOSBERG, ESQ.
of Portland, Maine
Me. Bar # 3446
Defendant

These matters are before the Court on an information filed by the Board of Overseers of the Bar, pursuant to Maine Bar Rules 7.2(b) (1) & (2), and the Court's order of June 18, 2002, which authorized the Board to file such an information without the necessity of any further review or hearing by the Grievance Commission under Maine Bar Rules 7.1(d),(e). The Court's order of June 18 resulted from a stipulated waiver of grievance commission review and hearing signed by the parties.

I. STIPULATIONS

The parties have stipulated to the following material facts:

A. COUNT I

1. The State of Maine Department of Human Services employed Dean Staffieri as a child protective caseworker.

2. On or about December 9, 1997, Staffieri was in the Cumberland County Courthouse in Portland, waiting for the District Court to hear a child protection matter.

3. Slosberg represented the person against whom Staffieri had brought the child protection petition, and he was in the courthouse just outside the courtroom waiting for the court to hear the case.

4. After casually speaking with Staffieri, Slosberg became very agitated and told Staffieri that he vehemently opposed the action the Department was taking against his client.

5. Uttering at least one obscenity at Staffieri, Slosberg shouted at him. Slosberg's very loud tone of voice and abusive manner towards Staffieri were not called for and were unprovoked.

6. Slosberg's verbal abuse of Staffieri as described above violated Maine Bar Rules 3.1(a), 3.2(f)(4), and 3.7(e)(2)(vi).

B. COUNT II

7. On or about August 24, 1997, Slosberg was shopping at the Shaw's Supermarket in the Westgate Shopping Center in Portland.

8. Because of complaints made by other Shaw's customers concerning Slosberg's conduct, Greg Guerette, the store manager of Shaw's, asked Slosberg to

leave the store. Shortly afterwards, Guerette requested assistance from the Portland Police Department because Slosberg did not leave Shaw's.

9. Upon entering the store, the police officers approached Slosberg and asked him what had happened. Slosberg profanely responded to the officers by cursing and yelling at them.

10. The officers asked Slosberg to leave Shaw's, but he did so only after the officers threatened to arrest him.

11. After exiting Shaw's, Slosberg then tried to re-enter the store stating that he had to pick up his elderly aunt who was shopping. The police officers thereupon arrested him.

12. At Slosberg's request, the officers allowed him to leave upon his accepting a notice for criminal trespass, a charge the Cumberland County District Attorney's Office later dismissed the charge because of Slosberg's health problems (Slosberg suffered a stroke on June 10, 1998).

13. Slosberg's misconduct as described above was disruptive to the normal commercial operations of Shaw's Supermarket.

14. Slosberg's misconduct at Shaw's violated Maine Bar Rules 3.1(a) and 3.2(f)(2)(4).

C. COUNT III

15. In May of 1994, Daniel Rameau had an accident while he was a customer at the Red Lobster Restaurant in Portland. Rameau later retained Slosberg to represent him on his claims against Red Lobster and its insurance company, Liberty Mutual.

16. On or about September 28, 1994, Liberty's claims representative, Jackie Saul, wrote Slosberg concerning Rameau's claim against Red Lobster. Saul's letter to Slosberg informed him that they did not have any report of Rameau's accident at Red Lobster, and asked him to provide additional information concerning the incident.

17. On or about December 27, 1994, Slosberg wrote to Saul in reply to her letter of December 7, which apparently had informed him that Liberty was rejecting Rameau's claim. Liberty rejected Rameau's claim because he had failed to report the accident at the time it allegedly had occurred.

18. On or about November 20, 1995, Slosberg informed Saul that Rameau had authorized him to sue Red Lobster. The letter offered to settle Rameau's case for \$3500.

19. On or about December 5, 1995, Robin Moore, another of Liberty's claims adjusters, wrote Slosberg again informing him that Liberty had closed its file on Rameau's claim.

20. On or about January 2, 1996, Slosberg wrote Rameau informing him that he would not file suit until he had received from Rameau \$100 for the filing fee and \$300 for the jury trial fee.

21. On or about May 14, 1996, November 7, 1996, and February 17, 1998, Rameau wrote Slosberg asking him if a court could waive the fees because he was indigent and an inmate of the Maine Department of Corrections. Slosberg never responded to Rameau's inquiries concerning waiver of the fees.

22. If Rameau was indigent, a court could have waived the fees for him pursuant to Rule 91 of the Maine Rules of Civil Procedure.

23. On or about April 11, 1998, Slosberg wrote Rameau informing him that he was not going to handle his claims against Red Lobster any further.

24. Slosberg's conduct as Rameau's counsel violated Maine Bar Rules 3.1(a) and 3.6(a).

D. COUNT IV

25. On or about December 19, 1996, Mohammed Ahmady retained Slosberg concerning an employment discrimination claim he had against Apria Health Care, Inc.

26. On or about March 27, 1997, the United States Equal Employment Opportunity Commission notified Slosberg in writing of Ahmady's right to sue Apria in either federal or state court.

27. The Commission's notification letter also informed Slosberg that any action against Apria had to be filed in the appropriate court within ninety days of his receipt of the notice.

28. On or about April 23, 1997, the Maine Human Rights Commission notified Slosberg in writing of Ahmady's right to sue Apria under the Maine Human Rights Act.

29. On or about July 21, 1997, Slosberg filed a lawsuit in the Cumberland County Superior Court against Apria on behalf of Ahmady.

30. In his complaint against Apria, Slosberg alleged, under various legal theories, that Apria had improperly discharged Ahmady.

31. On or about August 25, 1997, Apria removed the *Ahmady v. Apria* litigation to the United States District Court, District of Maine, and on or about August 29, filed an answer in that court.

32. Shortly afterwards, a scheduling order from the U.S. District Court directed counsel of record to file all motions with supporting memoranda by December 30, 1997.

33. On or about December 30, 1997, Apria filed a motion for summary judgment against Ahmady, and on or about January 23, 1998, the U.S. District Court (*Carter, J.*) entered summary judgment against Ahmady.

34. The Federal Court noted that:

- a. Slosberg had not timely objected to Apria's motion for summary judgment; and
- b. Slosberg had not timely filed suit for Ahmady within the ninety day period provided for under 42 U.S.C. § 2000e-5(f)(1), as he was directed to do by the Federal Commission's notification letter of March 27.

35. On or about January 26, 1998, Slosberg filed an untimely memorandum opposing Apria's motion for summary judgment.

36. On or about January 26, 1998, Slosberg filed a motion to vacate the judgment and vacate the order granting motion for summary judgment, which the Federal Court denied on February 18.

37. Slosberg's failure to timely file a civil complaint against Apria and his failure to timely respond to the motion for summary judgment were violations by him of Maine Bar Rule 3.6(a) (failure to use reasonable care and skill and neglect of a legal matter).

II. SANCTION

Considering the above facts stipulated to by the parties, the Court finds that Slosberg violated several provisions of the Maine Bar Rules. His verbal abuse of Staffieri, in the courthouse and in close proximity to the courtroom itself, violated Maine Bar Rules 3.2(f)(4) and 3.7(e)(2)(vi), it being degrading to the court, and having no purpose other than to intimidate and harass Staffieri from testifying and

presenting his case. Similarly, Slosberg's failure to promptly obey the orders of the officers to leave Shaw's Supermarket violated Maine Bar Rules 3.2(f)(2) & (4) because it interfered with the officers in their law enforcement duties, and adversely reflected on Slosberg's fitness as a lawyer by demonstrating his disregard of an attorney's basic obligation to obey the law. Additionally, Slosberg's failure to reply to Rameau's inquiries concerning waiver of the fees, and his failure to timely respond to filing deadlines in the Ahmady/Apria federal litigation violated Maine Bar Rule 3.6(a) (failure to use reasonable care and skill, neglect of a legal matter, and failure to keep the client informed on the status of the client's affairs). Moreover, all of this conduct by Slosberg is in violation of Maine Bar Rule 3.1(a) (conduct unworthy of an attorney).

The Court is aware of Slosberg's significant disciplinary record. His most recent sanction is a one month suspension imposed by this Court on May 1, 1998 for client trust accounting irregularities.¹ Since then, Slosberg has engaged in very little practice of law. The after effects of his June 10, 1998 stroke have left him with physical infirmities. Slosberg's misconduct, while serious, is not recent, and the Court is mindful of the deleterious effects his stroke has had on his law practice.

¹ The Court found that Slosberg failed to use proper trust accounting procedures, *not* any fraud or defalcation.

Accordingly, it is ORDERED that Richard B. Slosberg is suspended from the practice of law in Maine for a period of three months. It is further ordered that all of the suspension itself shall be suspended, on the condition that for a period of one year from the date of this order, Slosberg commits no violation of the Maine Bar Rules. Bar Counsel may file an information directly with the Court concerning any new complaints of professional misconduct by Slosberg without any Grievance Commission review or hearing.

Date: November 21, 2002

Robert W. Clifford, Associate Justice
Maine Supreme Judicial, Court